UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/47/584
19 November 1992

ORIGINAL: ENGLISH

Forty-seventh session
Agenda item 129

REPORT OF THE INTERNATIONAL LAW COMMISSION ON THE WORK OF ITS FORTY-FOURTH SESSION

Report of the Sixth Committee

Rapporteur: Mr. Wael Kamal ABOULMAGD (Egypt)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 18 September 1992, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "Report of the International Law Commission on the work of its forty-fourth session" and to allocate it to the Sixth Committee.

2. In connection with the item, the Sixth Committee had before it the following documents:

(a) Report of the International Law Commission on the work of its forty-fourth session; 1/

(b) Note verbale dated 19 February 1992 from the Permanent Representative of Mexico to the United Nations addressed to the Secretary-General transmitting the document entitled "International responsibility of the State for wrongful acts (a historical and critical study)" (A/47/95);

(c) Letter dated 14 September 1992 from the Permanent Representative of Kuwait to the United Nations addressed to the Secretary-General transmitting the text of the statement issued by the Ministerial Council of the Gulf

---

1/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10 (A/47/10).

Cooperation Council at its forty-fourth session, held at Jeddah on 8 and 9 September 1992 (A/47/441-S/24559);

(d) Letter dated 15 September 1992 from the Permanent Representative of Qatar to the United Nations addressed to the Secretary-General transmitting the text of a statement issued by the Ministers for Foreign Affairs of the Damascus Declaration countries at their sixth meeting, held at Doha on 9 and 10 September 1992 (A/47/449-S/24566).

3. The Sixth Committee considered the item at its 20th to 30th meetings, held from 26 October to 6 November, and at its 35th meeting, on 16 November 1992. The summary records of those meetings (A/C.6/47/SR.20-30 and 35) contain the views of the representatives who spoke during the consideration of the item.

4. At the 20th meeting, on 26 October, Mr. Christian Tomuschat, Chairman of the International Law Commission at its forty-fourth session, introduced the Commission's report on the work of that session. At the 30th meeting, on 6 November, the Chairman of the Commission made a closing statement.

II. CONSIDERATION OF DRAFT RESOLUTION A/C.6/47/L.14

5. At the 35th meeting, on 16 November, the Chairman of the Sixth Committee introduced a draft resolution entitled "Report of the International Law Commission on the work of its forty-fourth session" (A/C.6/47/L.14).

6. At the same meeting, the Committee adopted draft resolution A/C.6/47/L.14 without a vote (see para. 8).

7. The representatives of Guinea (on behalf of the African Group in the Sixth Committee), Israel, Cuba, the United States of America, Australia, Iran (Islamic Republic of), Sierra Leone, Pakistan, Canada, India, China and the United Kingdom of Great Britain and Northern Ireland (on behalf of the European Community and its 12 member States) made statements in explanation of position after the Committee adopted the draft resolution.

III. RECOMMENDATION OF THE SIXTH COMMITTEE

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Report of the International Law Commission on the work of its forty-fourth session

The General Assembly,

Having considered the report of the International Law Commission on the work of its forty-fourth session, 2/

Emphasizing the need for the progressive development of international law and its codification in order to make it a more effective means of implementing the purposes and principles set forth in the Charter of the United Nations and in the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations 3/ and to give increased importance to its role in relations among States,

Recognizing the importance of referring legal and drafting questions to the Sixth Committee, including topics that might be submitted to the International Law Commission, and of enabling the Sixth Committee and the Commission further to enhance their contribution to the progressive development of international law and its codification,

Recalling the need to keep under review those topics of international law which, given their new or renewed interest for the international community, may be suitable for the progressive development and codification of international law and therefore may be included in the future programme of work of the International Law Commission,

Recognizing the role of the International Law Commission in the fulfilment of the objectives of the United Nations Decade of International Law,

Taking note with appreciation of the sections of the report of the International Law Commission concerning the question of the possible establishment of an international criminal jurisdiction 4/ and noting the debate in the Sixth Committee pertaining to this question, 5/

Considering that experience has demonstrated the usefulness of structuring the debate on the report of the International Law Commission in

---

2/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10 (A/47/10).

3/ Resolution 2625 (XXV), annex.

4/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10 (A/47/10), chap. II and annex.

5/ A/C.6/47/SR.20-25, 28-30 and 35.

the Sixth Committee in such a manner that conditions are provided for concentrated attention on each of the main topics dealt with in the report, and that this process is facilitated when the Commission indicates specific issues on which expressions of views by Governments are of particular interest for the continuation of its work,

1. Takes note of the report of the International Law Commission on the work of its forty-fourth session; 2/

2. Expresses its appreciation to the International Law Commission for the work accomplished at that session;

3. Recommends that, taking into account the comments of Governments, whether in writing or expressed orally in debates in the General Assembly, the International Law Commission should continue its work on the topics in its current programme;

4. Takes note with appreciation of chapter II of the report of the International Law Commission, entitled "Draft Code of Crimes against the Peace and Security of Mankind", which was devoted to the question of the possible establishment of an international criminal jurisdiction;

5. Invites States to submit to the Secretary-General, if possible before the forty-fifth session of the Commission, written comments on the report of the Working Group on the question of an international criminal jurisdiction; 6/

6. Requests the International Law Commission to continue its work on this question by undertaking the project for the elaboration of a draft statute for an international criminal court as a matter of priority as from its next session, beginning with the examination of the issues identified in the report of the Working Group and in the debate in the Sixth Committee with a view to drafting a statute on the basis of the report of the Working Group, taking into account the views expressed during the debate in the Sixth Committee as well as any written comments received from States, and to submit a progress report to the General Assembly at its forty-eighth session;

7. Endorses the decision of the International Law Commission not to pursue further, during the present term of office of its members, the consideration of the second part of the topic "Relations between States and international organizations";

8. Expresses its appreciation for the efforts of the International Law Commission to improve its procedures and methods of work;

6/ Official Records of the General Assembly, Forty-seventh Session, Supplement No. 10 (A/47/10), annex.

9. Requests the International Law Commission:

(a) To consider thoroughly:

(i) The planning of its activities and programme for the term of office of its members, bearing in mind the desirability of achieving as much progress as possible in the preparation of draft articles on specific topics;

(ii) Its methods of work in all their aspects, bearing in mind that the staggering of the consideration of some topics might contribute, inter alia, to a more effective consideration of its report in the Sixth Committee;

(b) To continue to pay special attention to indicating in its annual report, for each topic, those specific issues on which expressions of views by Governments, either in the Sixth Committee or in written form, would be of particular interest for the continuation of its work;

10. Takes note of the comments of the International Law Commission on the question of the duration of its session, as presented in paragraph 377 of its report, 2/ and expresses the view that the requirements of the work for the progressive development of international law and its codification and the magnitude and complexity of the subjects on the agenda of the Commission make it desirable that the usual duration of its sessions be maintained;

11. Reaffirms its previous decisions concerning the role of the Codification Division of the Office of Legal Affairs of the Secretariat and those concerning the summary records and other documentation of the International Law Commission;

12. Again draws the attention of Governments to the importance, for the International Law Commission, of having their views on the draft articles on the law of the non-navigational uses of international watercourses and on the draft Code of Crimes against the Peace and Security of Mankind, adopted on first reading by the Commission, and urges them to present in writing their comments and observations by 1 January 1993, as requested by the Commission;

13. Once again expresses the wish that seminars will continue to be held in conjunction with the sessions of the International Law Commission and that an increasing number of participants from developing countries will be given the opportunity to attend those seminars, appeals to States that can do so to make the voluntary contributions that are urgently needed for the holding of the seminars, and expresses the hope that every effort will continue to be made by the Secretary-General, within existing resources, to provide the seminars with adequate services, including interpretation, as required;

14. Requests the Secretary-General to forward to the International Law Commission, for its attention, the records of the debate on the report of the Commission at the forty-seventh session of the General Assembly, together with

such written statements as delegations may circulate in conjunction with their oral statements, and to prepare and distribute a topical summary of the debate;

15. Recommends the continuation of efforts to improve the ways in which the report of the International Law Commission is considered in the Sixth Committee, with a view to providing effective guidance for the Commission in its work;

16. Also recommends that the debate on the report of the International Law Commission at the forty-eighth session of the General Assembly commence on 25 October 1993.